

**ZONING BOARD OF APPEALS**  
**781-982-2100**

**Minutes**  
**Zoning Board of Appeals**  
**April 11, 2013**  
**Cotter Room**  
**7:00 p.m.**

**Members present:** James Haney, William Mullen, John Shepard, Sean Reynolds, Marshall Adams, Building Inspector/Zoning Enforcement Officer

7:00 p.m. **Minutes March 14, 2013** – motion to approve made by Mr. Reynolds, seconded by Mr. Shepard, unanimous.

7:00 p.m. **Petitions of Abington Investments LLC, 245 Central Street, Abington, for: variance to allow duplex residential dwelling under 175-21A(2) ; variance to allow driveway parking in front yard instead of rear yard under 175-37B(2); variances as shown on submitted plan under 175-37C(3)(a-c) for lot area and setbacks; variance to delete requirement for 10-unit bike rack under 175-37D(2); special permit to allow work within the Floodplain Wetlands Protection District under 175-35G; special permit to allow over 15% but under 50% impervious surface with waiver/variance to delete hydro geologist requirement; same relief is requested for each of two lots: Lot 4 and Lot 5, 92 Progress Street. The property is located on Assessors Plan 17, Plots 4 and 5, in the Transit Oriented Development District.** Voting members: James Haney, William Mullen, John Shepard.

Atty. Shawn Reilly, Glenn LaPointe and Glenn LaPointe, Jr. attended representing Abington Investments. Property is on the east side of Progress Street in a heavily residential area, the site of a recent fire. The LaPointes have purchased the property. They are proposing a two-unit building on this lot as well as the vacant lot adjacent to the property. Falls in Watershed and FPWPD. They feel this proposal fits better in the neighborhood. Zoning map was updated – this is in Transit Oriented District. Includes houses along Progress Street on east side. Russ Wheatley Company did plan. Under new zoning, building would have to be up close to street; they have to ask for relief to do just residential. Property is 19,600 s.f. altogether. All the parking would have to be at rear of building under TOD. Didn't feel this conformed to neighborhood. A four-unit building or commercial use would be moved up to 5' of street. The petitioners illustrated different scenarios.

They are proposing two two-unit buildings, pulling it away from property line. Each lot would be 9800 s.f.; 10,000 s.f. lots are allowed in this zone. Street is almost totally residential other than the end of the street. They don't want parking in the back; in this neighborhood parking is in the front. TOD allows multi-family use. They want to stay with residential to eliminate the commercial aspect. Two buildings

would look more in line with what exists in the neighborhood. Because you're in Watershed Protection District, relief is needed to add on or construct in any way; 60% impervious surface would be allowed if you weren't in the Watershed. Hydro geologist would have to be hired also. One and two family houses were not the target for this. Letter submitted from Water Department relating to this issue. Stormwater management would be required for commercial use. They would only be covering 31% of lot with this proposal. A ten unit bike rack is required for this zone; they don't need this. He didn't think the neighbors would want commercial use on this property.

Property was originally two lots, but Mrs. Wickersham bought both lots, with a house on one and the other vacant. They were told it was two lots. Assessors' records list it as two lots. Mr. LaPointe was told he could get sewer hookup for the second lot. Mr. Reynolds - what is the burden for two unit or single. Atty. Reilly - a single is more of a deviation from the Zoning Bylaws in the TOD. A four-unit would be allowed, but two two-units look better. In order not to do commercial, you need variance. Buildings would be more than 100' from the wetlands across the street, but the driveways would be within 100', so they will file with the Conservation Commission.

Building Inspector - became one lot when it became contiguously owned. A 4-plex is less conducive to area. They feel this is better fit for neighborhood. Building Inspector agreed. He felt this would do right by the neighbors. Well thought out proposal. Mr. Shepard - are they selling or keeping? Selling.

Opened to floor:

Joe Franey, abutter - thinks it's good. It fits neighborhood; would like to see it happen.

Closed to table. Mr. Reynolds - this zoning should have been left as residential.

Relief reviewed: variance to not require hydro geologist; waiver of EIS - not required for one or two family (in wording of by-law); variance to allow duplex, rather than commercial. They will be two story buildings. Variance to allow driveway parking in front yard - felt to be in character with neighborhood. Plan was shown to Mrs. Curtis, and she was receptive. Variance to delete bicycle rack - made sense. Board seemed to be in favor of requested relief.

Motion by Mr. Mullen to approve a variance to allow a duplex residential dwelling under 175-21A(2); variance to allow driveway parking in front yard instead of rear yard under 175-37B(2); variances as shown on submitted plan under 175-37C(3)(a-c) for lot area and setbacks; variance to delete requirement for 10-unit bike rack under 175-37D(2); special permit to allow work within the FPWPD under 175-35G; special permit to allow over 15% but under 50% impervious surface with waiver/variance to delete hydro geologist requirement. Relief is requested for Lots 4 and 5, 92 Progress Street. Seconded by Mr. Shepard, unanimous.

7:50 p.m. **Petition of Paul Crowley, 338 Brockton Avenue, Abington, for: special permit to construct in the Floodplain and Wetlands Protection District and waiver of Environmental Impact Statement on three subdivided lots; Lot 3 requiring 70' frontage variance and 70' lot width variance at 498 Linwood Street under Abington Zoning By-Laws Sec. 175-35 and 175-21. The property is located on Assessors Plan 20, Plot18Z, in the R-40 Zone.** Voting members: James Haney, William Mullen, Sean Reynolds.

Russ Wheatley and John Cotter attended with Paul Crowley – requesting lot frontage and lot width variance. Creating two conforming lots, and majority of back lot is wetlands. Hardship is wetlands and topography. Looking to create single family house lot. Has been delineated by a botanist. It is wet meadow to edge of forest. Lies in the FPWPD. Construction is outside limit of FPWPD on two, but requesting special permit on all three lots. Waiver is because they are single family houses and going to Conservation for all three lots. It is under purchase and sale. Currently it is one lot. Mr. Reynolds – they are creating a hardship looking for three lots. John Cotter – previously this type of relief has been granted due to large amount of land, and insufficient frontage. Mr. Reynolds – previously granted petitions were done by different board members. Paul Crowley – he has sewer for all three lots. Mr. Reynolds – he had the knowledge before he did purchase and sale that it was not sufficient; hardship is self-created; he knew what the land was. Mr. Mullen – frontage is a difficult issue. Mr. Wheatley – 50' access to 27 acres is hardship. There is only 57,000 s.f. of upland out of 27 acres. Mr. Shepard – lot 1 is a busy spot, congested.

Opened to floor – Mr. Haney read letter from Matthew Hannigan, 352 Diane Circle – has existing water problems now and concerned they will worsen. Opposed to relief for Lot 3. Doesn't see hardship.

Rich Nigrelli, 340 Diane Circle – has water issues now, against proposal. There are streams back there. This is bad for environment and for the neighborhood.

Laurence Fritz, 372 Diane Circle, abuts property – has water in basement now. Water table is high now- has to pump over the stone wall to the wetlands. More building foundations would displace more water.

Gary Trenholm, 496 Linwood Street – has water in basement; it's wet in back till August. Asked about flags out there. It was flagged by a botanist.

Merilee Trenholm, 496 Linwood Street – concerned about animals; what will it do to environment? They are right in the middle of this. It is soaked everywhere back there. Very concerned, doesn't see hardship. Don't buy the whole area. It is a busy street.

Back to table. Mr. Haney – wetlands issue is a big hurdle. Felt two lots and no variances was a better option. Mr. Reynolds – motion to not accept this plan, no financial hardship.

Mr. Haney – motion did not look favorable, mentioned withdrawing the petition to Mr. Crowley. Mr. Reynolds suggested meeting with the neighbors. Mr. Crowley requested to withdraw the petition. Motion to allow withdrawal without prejudice made by Mr. Mullen, seconded by Mr. Reynolds, unanimous.

8:00 p.m. **Petition of Zebs Realty Trust, 10 Kathleen Drive, Holbrook, for: special permits under 175-24D(1)(k) and 175-24D(3) to allow over 15% (and less than 50%) of the lot to be impervious, 175-24D(2) to allow the change in use of the site from an oil tank storage site to a residential site, 175-35 to work in the Flood Plain Overlay District, variances under 175-43A to allow 9' wide parking spaces, and 175-66A to reduce the buffer along the rear lot line at 351 Summer Street. The property is**

**located on Assessors Plan 17, Plots 25, in the Transit Oriented Development District.** Voting members: James Haney, William Mullen, John Shepard.

Atty. Shawn Reilly and Stephen Zeboski gave presentation. Oil tanks have been removed. They are cleaning up property, previously there was no sewer available. They were going to have septic treatment system. They got approval for ten-unit building previously. Property is within walking distance to "T". They are requesting a special permit to allow over 15% impervious surface – it is actually 41.3%. Change of use needs a special permit, going from oil tank farm to residential. Number of units had to be established before going forward. They still have to go to Planning Board for site plan review. 175-35 – they submitted an Environmental Impact Statement. Variance for parking width - 9' width allows for two spaces for everyone. They would have to increase impervious surface if they have to go to 10' spaces. Variance to reduce buffer along rear lot line – this would abut Woodlands. They are proposing to cut existing woods away from the building for lawn in back, and there is already 75' buffer of vegetation to Woodlands garage buildings. They are not near the residences. There is plenty of existing buffer.

This still has to go through Planning Board's engineers. Hydro geologist report will come in next week. If approved, it could be contingent upon positive hydro geologist report. They will be improving ground water. They are complying with 21E.

Board would prefer not to approve conditionally, contingent upon more information. Mr. Haney didn't have an issue with the variances. Atty. Reilly requested they approve what they can and pass that on to Planning Board. Don't issue decision until it's done. Mr. Reynolds – suggested they go to Planning and then come back to ZBA. Planning Board will need to know on the parking from ZBA, and it would want dimensional relief that was granted re review. Mr. Haney – Board could vote on dimensional relief and keep open for first four special permits. They got approval for residential use previously. Permit extension policy issued by State was brought up.

Motion by Mr. Mullen to approve variance per 175-43A to allow 9-foot wide parking spaces and 175-66A to reduce the buffer along the rear lot line, seconded by Mr. Shepard, unanimous.

Motion by Mr. Mullen to continue special permits under 175-24D(1)(k), 175-24D(2), 175-24D(3) and 175-35 to May 9, 2013 at 7:00 p.m. for receipt of hydro geologist report, seconded by Mr. Shepard, unanimous.

Meeting adjourned at 8:35 p.m.

Respectfully submitted,

Nancy Hurst